

# **East Herts Council Report**

## **Licensing Sub-Committee**

**Date of Meeting:** 22<sup>nd</sup> April 2025

**Report by:** Jonathan Geall, Head of Housing and Health

**Report title:** Application for a new premises licence for Knight Street Vault Limited, 28 Knight Street, Sawbridgeworth, CM21 9AT

Application Reference: 25/0115/PL

**Ward(s) affected:** Sawbridgeworth

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### **Summary**

An application for a new premises licence for: Knight Street Vault Limited, 28 Knight Street, Sawbridgeworth, CM21 9AT has been received from the applicant – Knight Street Vault Limited. The application has received representations from a member of Sawbridgeworth Town Council and members of the public. Where representations are received against an application, and not withdrawn, there must be a Licensing Sub-Committee meeting to decide that application. This report is to inform that decision.

## **RECOMMENDATIONS FOR LICENSING SUB-COMMITTEE**

**(a) The application for a new premises licence be decided.**

### **1.0 Proposal(s)**

1.1 Members of the Licensing Sub-Committee should determine the application through consideration of the information contained in this report, the application for a new premises licence, and any appendices, combined with submissions made at the Licensing Sub-Committee hearing.

### **2.0 Background**

- 2.1 Under the Licensing Act 2003 and the council’s Statement of Licensing Policy (‘the Policy’) an application for a new premises licence or certificate must be determined.
- 2.2 Where valid representations are received the council’s discretion is engaged. A Licensing Sub-Committee has the delegated authority to determine applications for new and varied licenses and certificates. This decision must be made whilst having regard to the nationally set Licensing Objectives, the council’s own Statement of Licensing Policy and to Statutory Guidance issued by the Secretary of State under section 182 of the Licensing Act.
- 2.3 The Licensing Objectives are:
- Prevention of Crime and Disorder
  - Public Safety
  - Prevention of Public Nuisance; and
  - Protection of Children from Harm.

### **3.0 Reason(s)**

- 3.1 The valid application by Knight Street Vault Limited was submitted on 27 January 2025.
- 3.2 The licensable activities and hours requested in the new application are shown in the table below.

<b>Licensable activity</b>	<b>Days</b>	<b>Times</b>
Provision of plays (indoors) Provision of films (indoors) Indoor sporting events	Monday - Sunday	08:00 – 23:00*

Provision of performance of dance (indoors)		
Provision of live music (indoors)	Monday – Thursday	08.00 – 23.00*
Provision of recorded Music (indoors)	Friday – Saturday	08.00 – 23.30*
	Sunday	08.00 – 23.00*
Sale of alcohol For consumption 'On & Off Premises'	Monday - Sunday	10:00 – 23:00**
Hours open to public	Monday - Thursday	08.00 – 23.00
	Friday – Saturday	08.00 – 00.00
	Sunday	08.00 – 23.30

\* Regulated entertainment: Regulated entertainment is not licensable between the hours of 08.00 – 23.00 on any day. Therefore, the only days recorded music and live music will be licensable is Friday and Saturday after 23.00. More information can be found at paragraph 3.37 of this report.

\*\* Sale of alcohol: The commencement hour for the supply of alcohol has been amended by the applicant during consultation from 08:00 to 10.00.

### 3.3 A redacted copy of the application form for the new premises

licence is attached as **Appendix 'A'**. Section 18 of the application form asks the applicant to describe any additional steps they intend to take to promote the four Licensing Objectives as a result of the application.

3.4 The plans to be attached to the premises licence is **Appendix 'B'**.

3.5 A plan of the area in which the premises are located is attached at **Appendix 'C'**. This can be used to illustrate the location of the premises in relation to residents and other businesses.

3.6 During the 28-day statutory public consultation period, 13 representations were received objecting to the application, one being from a Sawbridgeworth Town councillor. The representations are attached as **Appendix 'D'**.

3.7 In summary, the representations suggest that all four of the Licensing Objectives would be undermined if the application is granted as requested:

- Prevention of Crime and Disorder
- Public Safety
- Prevention of Public Nuisance; and
- Protection of Children from Harm.

3.8 Representations express concerns regarding:

- noise management measures – including noise pollution; that the noise impact assessment does not include issues raised by the outdoor seating arrangements and that the outdoor seating area may be a significant source of disturbance
- the lack of dispersal policies
- waste control measures felt to be inadequate
- perceived outdoor seating safety issues including capacity in this area

- a view that the application included unreasonable hours of operation
- a belief that disruption that may be caused by frequent events
- issues that those making representations believe may be detrimental to the quiet and peaceful amenity of persons who live in the vicinity of the premises
- a view that the activities carried on at the premises, especially the sale of retail alcohol may cause an increase in anti-social behaviour.

3.9 The Police and Environmental Health team have agreed conditions with the applicant subsequent to submission of the application. These would appear on the premises licence under Annex 2 if the licence is granted. The agreed conditions are attached as **Appendix 'E'**.

## **Policy and Guidance**

3.10 Section 3.17 of the Statement of Licensing Policy states: Protecting local residents and avoiding nuisance from disturbance and anti-social behavior caused by the conduct of inconsiderate people visiting places of entertainment, is central to our Licensing Policy. This focus aims to address concerns about the impact of trading hours on behavior and disturbance at night.

3.11 Section 5.17 of the Statement of Licensing Policy states: Engagement is an important element of the licensing process. Applicants are expected to have considered the location and community it is proposing to operate in. An understanding of the concerns to be addressed can be obtained by early engagement with a variety of bodies and individuals including:

- Responsible authorities
- Ward councilors
- Town councils

- Parish councils
- Residents Associations
- Businesses and residents in the vicinity of the proposed premises.

3.12 Section 5.18 of the Statement of Licensing Policy states:

Experience shows that early engagement allows concerns to be addressed in the most timely and cost effective way for all parties. Where concerns cannot be addressed before an application is made resulting in representations the expectation is that the dialogue between the parties continues to try and find common ground.

3.13 Section 6 of the Policy details definitions of premises and location and operation of premises, differentiating between Town Centre locations and other areas. Under this section of the policy the premises is in a Town Centre and the operation of Knight Street Vault best fits the definition of a night club:

'Primarily for the sale of alcohol and provisions of recorded or amplified music with facilities for dancing and opening times past 2300 hours. May include the provision of late-night refreshments.'

As this is a new premises licence, the precise definition of this premises may change.

3.14 Section 7 of the Statement of Licensing Policy details the authority's aspiration to create family friendly Town Centres:

7.1 'Our vision is to create a diverse, safe and family-friendly environment within the District, particularly within the Town Centres. The nature of our Town Centres and the types of people attracted to the offering varies depending on the time of day. We want there to be something for everyone and not a predominance of one type of licensed premises only appealing to one demographic. Whilst we recognise that each application must be

considered on its individual merits and must be granted in the absence of any relevant representations, policies will be implemented to achieve our overall aims.'

3.15 The premises falls within what is considered in section 7.2 of the Statement of Licensing Policy to be in the Town Centre, in this case the town centre of Sawbridgeworth. The table at 6.9 of the Policy details the council's approach to hours for licensed premises of this type that fall under this location. Notwithstanding that each application is considered on its own merits, the following hours would normally be granted to this style of premises in this location when valid and relevant representations have been received:

*'Will generally be granted licensable activities no later than 01:00 on Monday to Saturday and until 22:30 on Sunday.'*

3.16 Section 8.1: The Licensing Authority must carry out its functions with a view to promoting the four Licensing Objectives, each of which has equal importance:

- The prevention of crime and disorder
- The prevention of public nuisance
- Public safety
- The protection of children from harm

3.17 Section 8.2 of the Policy states that, it is recognised that the licensing function is only one means of securing the delivery of the Licensing Objectives and should not therefore be seen as a means for solving all local problems. The Licensing Authority will therefore continue to work in partnership with all stakeholders and partners towards the promotion of the Licensing Objectives.

3.18 Section 8.3 of the Policy states that, the Licensing Authority expects applicants to address the Licensing Objectives within their operating schedules, having regard to the nature of the premises, the licensable activities to be provided, operational procedures, and the nature of the location and the needs of local communities.

The operating schedule should contain sufficient information to enable the Licensing Authority, responsible authorities and other persons who may be affected by the operation of the licensed premises to assess whether the steps which will be taken to promote the Licensing Objectives are sufficient to mitigate any potential adverse impact.

- 3.19 Section 8.29 of the Policy states that, where premises which are the subject of licensing applications involving amplified musical entertainment beyond 23:00 hours are in close proximity to residential properties, the Licensing Authority will require a comprehensive operating schedule listing measures that the applicant intends to implement to ensure the promotion of this Licensing Objective.
- 3.20 Section 8.30 of the Policy states that, The Licensing Authority will pay close regard to premises in close proximity to residential property proposing or permitted to trade after 23:00 where the premises includes one or more external areas for use by customers (for example, beer gardens, external dining areas, or smoking areas), as use of such areas by customers has the potential to lead to a public nuisance if not closely controlled. Applicants are required to include measures within their operating schedule setting out how they intend to control the use of such areas, in order to promote this Licensing Objective.
- 3.21 Section 17.5 of the Policy states that, the Licensing Authority will, where appropriate, and having received relevant representations, take into account the cumulative effect that the existence of a concentration of premises in one area may have. A concentration of licensed premises can attract customers to the area to such a degree that it has an adverse impact on the surrounding area beyond the control of individual licence holders.
- 3.22 Section 2.16 of the Statutory Guidance, 'Revised Guidance issued



under section 182 of the Licensing Act 2003', herein the Guidance, refers to ensuring safe departure of those using the premises:

'Licence holders should make provision to ensure that premises users safely leave their premises.'

Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and,
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

### 3.23 Section 2.18 of the Guidance refers to Safe Capacities:

"Safe capacities" should only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the relevant premises. For example, if a capacity has been imposed through other legislation, it would be inappropriate to reproduce it in a premises licence. Indeed, it would be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

### 3.24 Sections 2.23 to 2.26 of the Guidance refers to public nuisance: Section 2.23 of the Guidance: Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated

measures like the installation of acoustic curtains or rubber speaker mounts to mitigate sound escape from the premises may be appropriate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (see chapter 16 of the Guidance). Any conditions appropriate to promote the prevention of public nuisance should be tailored to the type, nature and characteristics of the specific premises and its licensable activities. Licensing authorities should avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

- 3.25 Section 2.24 of the Statutory guidance: As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. But as stated earlier in this Guidance, the approach of licensing authorities and responsible authorities should be one of prevention and when their powers are engaged, licensing authorities should be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.
- 3.26 Section 2.25 of the Statutory guidance: Where applications have given rise to representations, any appropriate conditions should normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a need for a licence for performances of live music between 23:00 hours]and 08:00 hours. In certain circumstances, conditions relating to noise emanating from the premises may be appropriate to address any disturbance anticipated as customers enter and leave.

3.27 Section 2.26 of the Statutory guidance: Measures to control light pollution will require careful thought. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light pollution for some neighbours. Applicants, licensing authorities and responsible authorities will need to balance these issues.

3.28 The Guidance, states at paragraphs 9.37 and 9.38 that:

9.37 As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular Licensing Objective or Objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits.

9.38 In determining the application with a view to promoting the Licensing Objectives in the overall interests of the local community, the Licensing Authority must give appropriate weight to:

- the steps that are appropriate to promote the Licensing Objectives;
- the representations (including supporting information) presented by all the parties;
- this Guidance;
- its own statement of licensing policy.

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- its own statement of licensing policy.

3.30 Paragraphs 9.42-9.44 of the Guidance deal with how to determine actions that are appropriate for the promotion of the Licensing Objectives.

3.31 If members determine to impose conditions to mitigate concerns regarding the suggested undermining of the Licensing Objectives, then Chapter 10 of the Guidance deals with conditions attached to premises licenses. The Guidance should be considered along with the East Herts [‘Pool of Model Conditions’](#).

3.32 Section 9.24 of the Statutory guidance states: The authority’s determination should be evidence-based, justified as being appropriate for the promotion of the Licensing Objectives and proportionate to what it is intended to achieve.

### **Officer Observations**

3.33 The statements that have been made by the applicant under section 18 of the application are vague and subjective and as such cannot be made into enforceable conditions. The steps suggested by the applicant in this section of the form have been assessed by the responsible authorities and the Police and Environmental Health team have agreed conditions that are listed on **Appendix**

'E' of this report. If there are areas from this section of the application that members feel have not been addressed, then they can ask questions of the applicant for clarity.

- 3.34 Although the Police and Environmental Health team have worked with the applicant and agreed conditions, residents' representations suggest that they do not believe these are adequate. Within the representations amendments to some of these conditions are suggested, and additional conditions are proposed, to further promote the Licensing Objectives. It is suggested by those making representations that the agreed conditions are not sufficient to uphold the Licensing Objectives and in particular, the Objective for prevention of public nuisance may be undermined if the premises licence were to be granted on those terms.
- 3.35 Although these conditions have been agreed, the representation made by Miss Glover would like several of these conditions revised and other conditions added. It is recommended that Licensing Sub Committee apply consideration to each condition to ensure that it is proportionate, enforceable and tailored to the operation of the premises. Any condition should not cause unnecessary burdens on the applicant. As example, a condition which requires the applicant to have eight SIA door supervisors every night of the week, when they may not always be necessary to promote the Licensing Objectives would be considered disproportionate. It's imposition could make the business financially unviable. The focus must still concentrate on the promotion of the Licensing Objectives and the steps that the authority can take to ensure that these are upheld.
- 3.36 Regulated entertainment, live and recorded music, was deregulated in premises licensed for the sale of alcohol for consumption on the premises by government. Therefore, if any granted licence includes the sale of alcohol for consumption on the premises, any condition that is applied to the premises licence, in respect of regulated entertainment will not take effect until 23.00.

- 3.37 The exemption, applied to live and recorded music between the hours of 08.00 and 23.00 on premises granted the sale of alcohol for consumption on the premises (section 177A of the Licensing Act 2003), can only be removed following a review application.
- 3.38 Eight representations refer to a decision made by East Herts Council in its capacity as the Planning Authority. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing Committee members are not bound by decisions made by a planning committee and vice versa. For reference, a copy of the decision notice is available under **Appendix 'F'** of this report. The planning approval is subject to conditions. One of the conditions, number 5, specifically relates to live and recorded music. It requires the applicant to ensure that noise mitigation measures are in place before the first use of the premises. This is to ensure an adequate level of amenity for occupiers in the local vicinity. Conditions imposed by the planning regime should not and need not be duplicated on any granted premises licence.
- 3.39 Some representations question the "need" for licensed premises to carry on with activities to supply alcohol, regulated entertainment and the provision of late night refreshment.

Section 14.19 of the Guidance states:

There can be confusion about the difference between the "need" for premises and the "cumulative impact" of premises on the Licensing Objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a Licensing Authority in discharging its licensing functions or for its statement of licensing policy.

- 3.40 The council in its capacity as the Licensing Authority has not put in place a cumulative impact policy in relation to the location of this premises.
- 3.41 With reference to beer gardens, if the beer garden or other outdoor area is not being used to provide licensable activity, there is no requirement to show this area on the plans that must accompany an application. In this case all of the licensable activity will take place indoors, so the outside areas of the premise have not been included on the plans.
- 3.42 The Police have agreed conditions with regards to a designated smoking area but this is not shown as there are no plans of the outside area included with the application. This renders the condition unenforceable in its current format. Members may wish to consider if there is a more appropriate wording if they believe it is necessary for the promotion of the licensing objectives.
- 3.43 Miss Glover's representation suggests that the supply of alcohol period should be amended so that the commencement hour is 12:00. This would only be appropriate if members believed that it had been demonstrated that allowing alcohol sales to start at 10:00 would undermine one or more of the licensing objectives.
- 3.44 Condition 3 agreed with the Police refers to the need for a dispersal policy to be in place. At the time of writing this report, such a policy has not been provided by the applicant. This policy will need to be provided to the Police and approved by them prior to the premises operating if a licence is granted.
- 3.45 Condition 4 states:  
The premises licence holder will ensure that a soft closure procedure is followed at the end of the evening; 30 mins before the terminal hour for hours open to public, any music that is playing must be lowered and announcements must be made to inform the public at the premises of the approaching closing time.

- 3.46 Looking at the opening hours requested the premises proposes to close at 23:00 Sunday to Thursday so live and recorded music is not regulated. On Friday and Saturday, the applicant proposes to close at 00:00 (midnight) and stop playing music at 23:30 meaning that there will already be no music 30 minutes prior to the premises closing. Thus, condition 4 is irrelevant given the timings requested and the deregulation of entertainment and so should not be attached to any granted premises licence.
- 3.47 Condition 5 refers to the premises having a written drugs policy. At the time of writing this report, such a policy has not been provided by the applicant. This will need to be in place prior to the premises operating if a licence is granted.
- 3.48 Condition 8 states:  
At least one SIA registered door staff shall be employed on Fridays, Saturdays and days leading into a bank holiday from 21:00 hours until no customers remain on the premises.
- 3.49 There is no indication of the capacity of the premises but as the Police are considered the expert authority in relation to crime and disorder it can be assumed that the police suggested figure of one registered SIA door supervisor is appropriate and that the applicant agrees.
- 3.50 Condition 9 states:  
Where customer capacities are known, SIA door staff will be employed at a ratio of one SIA door staff per fifty customers on the premises. Door staff will be required from 21:00 hours Fridays, Saturdays and days leading into Bank Holiday until all customers have left the premises.
- 3.51 The term "*Where customer capacities are known*" is too loose and undermines enforcement. Of note, what does 'customer capacities' mean? It could be read as meaning the numbers that the building



itself could accommodate while, presumably, the condition is referring to the actual number of people on the premises at any one time. In addition, the 'where... known' wording means that not knowing how many people are on the premises is a reasonable defence if challenged as to the actual ratio of door staff to customers. For example, there could be, say, 150 people on the premises but if the licence holder claims to have not known this, no breach could be confirmed. Thus, this condition is unenforceable and should not be placed on any granted premises licence in its current wording.

3.52 Condition 12 states:

An entry control system to control the number of customers at the premises will be used to ensure safe capacity of customers at the premises at any one time. The system will be able to give a report of the number of customers on the premises at any one time.

3.53 No details are given about the type of "entry control system" the Police expect the licence holder to implement. The current wording would allow something as simple as a clicker or a pen and paper to be used to satisfy this condition. This may be considered satisfactory but members may wish to ask the applicant what "entry control system" they propose to implement.

3.54 The Regulatory Reform (Fire Safety) Order 2005, also known as the Fire Safety Order, places responsibility on the "responsible person" to identify, reduce, and manage fire risks to safeguard all "relevant persons" on the premises and those in the immediate vicinity. Members may wish to ask the applicant who the "responsible person" is and if a calculation regarding the *maximum* capacity of the premises has been made. Whilst a maximum capacity should not be placed on the premises licence it may aid members in relation to any amendments, they deem appropriate to the conditions regarding numbers of SIA accredited staff.

- 3.55 Condition 1 agreed with Environmental Health: A noise management plan shall be submitted to, and approved by, Environmental Health, no later than two months after the issuing of the license. This shall be carried out in accordance with the guidance provided.
- 3.56 The noise management plan has not been submitted to Environmental Health so cannot aid members in reaching a decision regarding the potential for public nuisance. It is unclear what the "guidance" is that the plan must be in accordance with is. As regulated entertainment only takes place after 23:00 the noise management plan only needs to deal with those periods, half an hour on Friday and Saturday night, and would not apply before this time.
- 3.57 Condition 2: All team members are to be trained in the implementation of the noise management plan.
- 3.58 As the noise management plan does not have to be approved for up to two months after the premises open this condition should not be placed on any granted premises licence in its current form. A licence holder cannot be required to train their staff on something that does not exist yet. There is no requirement in this condition to record this training and its contents or for refresher training in the future. If members are minded to amend the condition, then they may wish to discuss any suggested wording with the applicant.
- 3.59 Sawbridgeworth Town Council's (STC's) representation starts by detailing their view that there has been a lack of transparency and community engagement. They raise concerns about the proximity of other licensed premises. Members should bear in mind, however, that issues caused by other premises should not affect the decision on whether to grant new licence applied for by Knight Street Vault. Each application must be considered on its own merits.

- 3.60 In STC's representation, under the heading "public safety" issues relating to traffic are raised. The behaviour of drivers and where they park is a matter of personal responsibility and beyond the control of the applicant. As such, issues relating to traffic should not be given any weight when reaching a decision.
- 3.61 In STC's representation, under the heading of "Public nuisance" the issue of noise is raised. As noted earlier in the report, noise has been addressed both by the planning regime and the conditions agreed with the Police and Environmental Health. If members believe, however, that the conditions do not adequately address their legitimate concerns, then they are able to impose additional and/or amended conditions while all the while bearing in mind that the deregulation applies up to 23:00. With regards to hours, it is irrelevant what hours other local premises operate as each application must be considered on its own merits. Litter and waste are a matter of personal responsibility once people have left the premises. The concerns relating to broken glass caused by people taking drinks from the premises has been addressed by the Police agreed condition 13. Furthermore, the frequency of events, raised as a concern by STC, will not have an impact on residents if an appropriate noise management plan is in place. Members may wish to ask the applicant what types and numbers of events are planned as whilst every day has been applied for this may be to allow flexibility rather than events happening every day. The applicant may be able to mitigate concerns by explaining how the premises will operate in practice and if necessary and appropriate conditions could be attached to ensure this.
- 3.62 In STC's representation, under the heading "protection of children from harm", three points are listed. These have been partially addressed when the applicant amended the times for the sale of alcohol to 10:00. This will not be the only licensed premises in the vicinity of the school or the area and

there are is no specific evidence available to say that the operation of this premises would have more impact than the existing ones. Paragraph 2.28 of the Guidance states:

*The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).*

If members believe that the proposed operation of the premises will undermine this licensing objective, then they can take the appropriate steps to mitigate this risk.

- 3.63 At the end of the representation made STC a list of restrictions and mitigations is included for members' consideration. The appropriateness of some of these has been addressed by agreed conditions and in the above paragraphs. If members have any other questions, then officers would be happy to try to assist.
- 3.64 In her representation, Miss Glover has suggested additional conditions, and amendments to the conditions agreed with the Police and Environmental Health. She has focussed on the planning application, but this has been dealt with by the Planning Authority and carries no weight in this matter.
- 3.65 When considering Miss Glover's suggestions members should be mindful not to duplicate any of the conditions attached to the planning permission. When considering the additional conditions requested members need to ensure that they are appropriate and enforceable. The Licensing Officer would be happy to assist on this point.
- 3.66 Miss Glover has heavily focussed on noise impact and noise monitoring as have Sawbridgeworth Town Council. It should be noted that Environmental Health have made no representation against the application following the applicant agreeing conditions.

As the authority responsible for dealing with noise nuisance, the decision of Environmental Health not to make a representation should carry weight when considering any other measures that may be suggested in the representations. The deregulation would mean that if a condition requiring noise monitoring or a noise limiter were imposed then this would only apply between 23:00 and 23:30 on Fridays and Saturdays. Whilst this is a time when nuisance may be more likely to be noticed, members are advised to consider whether it would be proportionate to impose such a condition and its associated cost for such a small period.

- 3.67 The representation from Mr Glover focusses heavily on the planning application and the conditions imposed at that time. Whilst matters such as noise and disturbance can be addressed by the licensing regime, these are also considerations for the planning regime. The council acting as the Planning Authority must have been satisfied that the conditions, they attached would mitigate these issues so this should be considered before adding any further conditions.
- 3.68 Mr Glover states that "*I believe that this application is unsuitable for the area and should be rejected*". Members are reminded that the Licensing Act is a permissive regime so the minimum steps should be imposed to ensure the promotion of the licensing objectives. Complete refusal should be the last option considered.
- 3.69 Kiri Brown's representation references another premises in Sawbridgeworth. Each application must be considered on its own merit, so the operation of another premises is not relevant to the decision before members today.
- 3.70 Several matters have been raised in representations which should not be given weight when reaching a decision as they fall outside of the intentions of the Act:
- proximity to the primary school and a zebra crossing
  - lack of parking

- increased traffic and pedestrian safety
- negative impact on property prices
- inadequate consideration at the planning stage.

3.71 Kiri Brown's representation requests that the application be rejected or the following limitations be imposed:

- limiting days and hours for live music and entertainment. Member should bear in mind that as this is covered by the deregulation, they cannot restrict live or recorded music before 23:00 or prohibit any particular days
- restrict alcohol sales to on the premises consumption only. Consumption is not a licensable activity so alcohol purchased on the premises could be drunk anywhere. Off sales is alcohol sold in closed containers to take away from the premises and drink elsewhere
- implement robust noise mitigation measures. Environmental Health have agreed conditions that they believe mitigate concerns about nuisance
- ensure adequate security provisions to prevent antisocial behaviour. The applicant has agreed conditions with the Police regarding security which the Police believe are adequate to mitigate concerns
- a balance must be struck between the applicant's business interests and the wellbeing and safety of the community. This is the purpose of the licensing objectives and today's hearing.

3.72 Liz Tripp's representation details issues related to licensed premises already operating in the street. This is not a relevant consideration as none of the issues can be linked to this applicant as the premises subject to this application is not yet operating.

3.73 Patricia O'Shea has submitted a representation which raises many of the same points as the previously detailed representations. Much of the commentary relates to the actions of the applicant and alleged lack of consideration over the period prior to and since the planning application was made. The Policy promotes early

engagement but a lack of it is not a reason to refuse an application. Members may wish to ask the applicant to respond to particular points within the representation so that they can better understand the applicant's intentions and how they propose to operate the venue whilst mitigating people's concerns and promoting the licensing objectives.

- 3.74 Mr and Mrs Moeser reference a lack of details from the applicant and refer to the planning application. Many of the points raised have been dealt with above in relation to the weight that should be attached to them.
- 3.75 Terry Brown has listed several concerns regarding the proposed use of the premises. They closely match those already commented upon above.
- 3.76 Tim and Julie Crouchman detail the same concerns as other residents and believe that the conditions agreed with the applicant are not adequate to mitigate their concerns.
- 3.77 In this representation reference is made to planning having imposed the most stringent guidance which requires inaudibility of noise within any residential premises. There is no condition that could be imposed by the licensing authority which could take more significant steps than this and it cannot be reproduced on any granted premises licence.
- 3.78 Kay Caller states that she is not making an objection, but her response has been included for completeness.
- 3.79 When considering the representations, members should note that the Planning Authority considered the amenity for occupiers in the vicinity of the proposed development and imposed conditions relating to noise, hours the premises can be used and the outside area. These should not and need not be duplicated on a premises licence and before imposing any further conditions members

should consider if these will ensure the promotion of the licensing objectives.

3.80 When looking at representations relating to crime and disorder, members should note that the Police have agreed conditions and not made representations. The section 182 guidance states at paragraph 2.1: Licensing authorities should look to the police as the main source of advice on crime and disorder.

#### **4.0 Options**

4.1 If considering additional or amended conditions, members should decide whether these conditions would in fact mitigate the concerns raised on the balance of evidence provided.

4.2 Any proposed conditions must be formatted to be enforceable. They need to be clear, unambiguous and free from subjective terms. If a condition cannot be enforced, then it should not be placed on any granted licence.

4.3 It is open to members to make changes to an application. This could include limiting the hours of operation and/or excluding licensable activities from the scope of the licence. Clear justification for this step would need to be given.

4.6 When the Licensing Sub-Committee gives its decision to those in attendance it should be made clear to all parties how much weight has been attached to each submission and what evidence members have relied upon when reaching their decision.

4.7 The comments, observations and suggestions contained within the body of this report and associated appendices do not fetter the Sub-Committee's discretion to reach the decision they believe is most appropriate when considering all the merits of the case.



4.8 As stated in the Guidance, the council's decision should be evidence based, justified as being appropriate for the promotion of the Licensing Objectives and proportionate to what it is intended to achieve.

4.9 The actions open to the Licensing Sub-Committee are:

- grant the licence as requested
- grant the licence subject to —
  - i. modified conditions; and/or
  - ii. additional conditions; and/or
  - iii. modified hours or activitiesif appropriate and proportionate to promote the licensing objectives
- refuse the application.

## **5.0 Risks**

5.1 A decision on the application must be made and any decision made can be appealed at the Magistrate's Court. Therefore, the Licensing Sub-Committee should ensure that when giving their decision on the application they give clear reasons on how and why they have made their decision. In doing so, the council's ability to defend its decision is strengthened and the risk of its decision being over-turned on appeal is lessened, although, of course, this risk can never be entirely removed.

## **6.0 Implications/Consultations**

6.1 As with any application for a new premises licence there is a 28-day public consultation.

6.2 The 28-day public consultation commenced on 24 February 2025 and the application was advertised correctly.

## **Community Safety**

6.3 The report details the four Licensing Objectives therefore community safety will be considered when determining the application.

## **Data Protection**

6.4 Where the appendices have shown personal data, this has been redacted.

## **Equalities**

6.5 Consideration has made to the Equality Act 2010 and the Public Sector Equality Duty in this report and will be considered during the Licensing Sub-Committee hearing.

## **Environmental Sustainability**

6.6 Not applicable to this report.

## **Financial**

6.7 There will be a cost to the authority in holding the Licensing Sub-Committee hearing; this will be covered by the existing budget.

6.8 There would be a cost if the decision of the Licensing Sub-Committee is appealed to the Magistrates Court and the authority chooses to defend that appeal.

## **Health and Safety**

6.9 None arising directly from this report.

## **Human Resources**

6.10 None arising directly from this report.

## **Human Rights**

6.11 As with all applications and council functions, the Human Rights Act 1998 has been considered in this report and will be considered during the Licensing Sub-Committee hearing.

## **Legal**

6.12 All statutory requirements have been considered in preparing this report.

## **Specific Wards**

6.13 Yes – Sawbridgeworth.

## **7.0 Background papers, appendices, and other relevant material**

7.1 Revised Guidance issued under section 182 of the Licensing Act 2003 (February 2025) -  
<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>

7.2 East Herts Statement of Licensing Policy 2021-2026  
<https://cdn-eastherts.onwebcurl.com/s3fs-public/2022-03/Statement%20of%20Licensing%20Policy%202021-26%20Mar%202022.pdf>

7.3 East Herts Pool of Model Conditions 2021  
<https://eastherts.fra1.digitaloceanspaces.com/s3fs-public/2021-08/Pool%20of%20Model%20Conditions%202021%20%28accessible%29.pdf>

- 7.4 Appendix 'A' - Application for a new premises licence
- 7.5 Appendix 'B' – Premises Plan
- 7.6 Appendix 'C' – Plan of the area
- 7.7 Appendix 'D' – Representations
- 7.8 Appendix 'E' – Conditions agreed with the Police and Environmental Health
- 7.9 Appendix F – Town and Country Planning Act 1990 (as amended) DECISION NOTICE

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